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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

VAN MAO,

Defendant and Appellant.

D074093

(Super. Ct. No. SCD273647)

APPEAL from a judgment of the Superior Court of San Diego County,
Timothy R. Walsh, Judge. Affirmed in part, reversed in part, and remanded with
instructions.

Neil Auwarter, under appointment by the Court of Appeal, on behalf of Defendant
and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney
General, Julie L. Garland, Assistant Attorney General, Michael Pulos and Michael D.
Butera, Deputy Attorneys General, for Plaintiff and Respondent.

I.

INTRODUCTION

Defendant Van Mao pleaded guilty to having a concealed firearm in his vehicle (Pen. Code,¹ § 25400, subd. (a)(1)). After the court struck a 14-year-old juvenile strike prior for felony assault in the interest of justice (§§ 667, subds. (b)-(i); 245, subd. (a)(1)), it placed Mao on probation for three years, with various terms and conditions. Mao challenges the condition that the probation officer approve his residence (condition 10(g)) as facially unconstitutional. He challenges three additional probation conditions as unreasonable and unconstitutional: (1) the requirement that he submit computers and recordable data to search without a warrant and with or without reasonable cause (condition 6(n)), the electronics-search condition, (2) the prohibition from appearing in court or at the courthouse unless he is a party or witness in the proceedings (condition 12(a)), and (3) the prohibition from knowingly visiting or frequenting any school grounds unless he is a student registered at the school (condition 12(c)).

We conclude the condition requiring probation officer approval of Mao's residence and the electronics-search condition are valid. However, the bans prohibiting Mao's presence at a courthouse or school are unreasonable, and we remand the matter to the trial court to strike or modify those conditions.

¹ Further section references are to the Penal code unless otherwise specified.

II.

FACTUAL AND PROCEDURAL BACKGROUND

On September 1, 2017, Mao was pulled over for failure to have a rear license plate. The officer recognized Mao from a previous incident and asked him if he was a gang member of Oriental Boy Soldiers (OBS) who went by the nickname "Teazer." Mao said yes. When the officer asked Mao if he had anything illegal in his vehicle, Mao said there was narcotics and a gun. Police recovered an unregistered Colt .22 caliber pistol from under a white rag, wedged between the seat and the center console. It had one bullet in the chamber and seven bullets in the magazine. Police also recovered a blue bandana near the driver side door, earplugs, and five Ecstasy pills.

Mao told police he acquired the firearm less than two weeks before because he had been shot at by someone he believed was a member of the Tiny Raskal Gang, and he wanted the gun for protection. He later told a probation officer that he had been shot at by an unknown person, and he thought if he had a gun he could scare people off and protect his family. He said there was a lot of gang activity in his neighborhood.

The probation department had difficulty reaching Mao, trying on numerous occasions without success. Sentencing was continued twice to allow the probation department to obtain information from him. When Mao finally met with a probation officer, he acknowledged that it was wrong to have the gun.

Mao lives with his fiancée and their three children, ages 13, 11, and two-months. Mao reported he was a member of the OBS gang from ages 16 through 19, and his fiancée's family are OBS members, but he is not an active gang member. He works for a

tile company and reported that he does not associate with "troublemakers," only coworkers. The probation report noted that Mao had made some good choices since his "juvenile days of being in a gang," but he made the poor choice of obtaining an unauthorized weapon and concealing it in his vehicle.

Mao pleaded guilty to having an unregistered and concealed firearm in a vehicle (§ 25400, subds. (a)(1) & (c)(6)). He had a prior strike conviction as a juvenile for a gang-related drive-by shooting. In 2004, he had been placed on juvenile probation and ordered to Breaking Cycles and Camp Barrett after a true finding of assault with a deadly weapon (§ 245, subd. (a)(1)) and crime to promote gang activity (§ 186.22, subd. (b)(1)). The court struck the prior strike in the interest of justice, given its age, its reduction to a misdemeanor, and the lack of criminal activity in the intervening years.

Defense counsel did not object to the residency approval requirement, but she objected to the electronics-search condition, arguing there was no nexus between the crime and the use of electronics or social media. The court applied the condition based on Mao's previous involvement with gangs because "gangs use the ability to communicate with each other through social media."

Defense counsel also asked the court not to impose gang conditions. The court explained Mao had been carrying the weapon for a reason, and although it did not necessarily think Mao was currently active in a gang, it was placing the condition on Mao because "I have to put conditions on people and offenses, and putting it on the person if he is not in a gang, he has nothing to worry about." The court also explained that it had decided to strike the prior strike with the understanding that it would instead impose

conditions necessary to adequately supervise Mao, and that it viewed the defense request as gutting the probation conditions so that it would be easy for Mao, negating the logic of imposing probation rather than leaving the strike and imposing jail time.

III.

DISCUSSION

We review the imposition of probation conditions for an abuse of discretion and constitutional challenges to probation conditions de novo. (*People v. Nachbar* (2016) 3 Cal.App.5th 1122, 1127, review granted Dec. 14, 2016, S238210 (*Nachbar*), citing *People v. Appleton* (2016) 245 Cal.App.4th 717, 723 (*Appleton*).) Our review for abuse of discretion considers whether the condition is "arbitrary or capricious" or otherwise exceeds the bounds of reason. (*People v. Carbajal* (1995) 10 Cal.4th 1114, 1121.)

A.

Residency Condition Is Facially Constitutional

Mao acknowledges he did not object to residency approval conditions at sentencing and challenges the condition as unconstitutionally overbroad. He contends it is not carefully tailored and reasonably related to a compelling state interest.

"Ordinarily, a criminal defendant who does not challenge an assertedly erroneous ruling of the trial court in that court has forfeited his or her right to raise the claim on appeal." (*In re Sheena K.* (2007) 40 Cal.4th 875, 880.) However, "where a claim that a probation condition is facially overbroad and violates fundamental constitutional rights is based on undisputed facts, it may be treated as a pure question of law, which is not forfeited by failure to raise it in the trial court." (*People v. Stapleton* (2017)

9 Cal.App.5th 989, 994 (*Stapleton*), citing *Sheena K.*, at pp. 888-889 and *People v. Welch* (1993) 5 Cal.4th 228, 235.)

"A restriction is unconstitutionally overbroad, . . . if it (1) 'impinge[s] on constitutional rights,' and (2) is not 'tailored carefully and reasonably related to the compelling state interest in reformation and rehabilitation.'" (*In re E.O.* (2010) 188 Cal.App.4th 1149, 1153, quoting *In re Victor L.* (2010) 182 Cal.App.4th 902, 910.) "The essential question in an overbreadth challenge is the closeness of the fit between the legitimate purpose of the restriction and the burden it imposes on the defendant's constitutional rights—bearing in mind, of course, that perfection in such matters is impossible, and that practical necessity will justify some infringement." (*E.O.*, at p. 1153.) A facial challenge does not take into account the individual facts of the probationer and instead considers more broadly the nature of the case and the goals and needs of probation in general. (*Stapleton, supra*, 9 Cal.App.5th at p. 993.) "For example, what is constitutional in a case involving drug usage is not necessarily the same as what is constitutional in a theft-related case. This broad consideration of the nature of the case must inform all decisions about whether the condition has been 'narrowly tailored,' even where, as here, we do not reach the personal circumstances of the probationer." (*Id.* at pp. 993-994.)

In conducting our review of whether a probation condition is sufficiently narrowly tailored to meet constitutional muster, we give the challenged probation condition " 'the meaning that would appear to a reasonable, objective reader.' [(*People v. Bravo* (1987) 43 Cal.3d 600, 606.)]" (*People v. Olguin* (2008) 45 Cal.4th 375, 382 (*Olguin*).) We can

"presume a probation officer will not withhold approval for irrational or capricious reasons." (*Stapleton, supra*, 9 Cal.App.5th at p. 996.) Thus, a residence approval condition does not permit the probation officer to arbitrarily disapprove of a defendant's place of residence. (*Id.* at pp. 996-997.)

In *People v. Bauer* (1989) 211 Cal.App.3d 937, the Court of Appeal struck down the residency approval condition for a defendant found guilty of false imprisonment and simple assault. (*Id.* at pp. 940, 944.) The court concluded there was nothing to suggest the defendant's home life contributed to his crimes, and the restriction had been put in place as a means of banishing the defendant from living with his parents, who the probation officer believed were too protective. (*Id.* at p. 944.) The appellate court concluded the condition impinged on Bauer's constitutional rights to travel and freedom of association because it gave the probation officer the discretion to forbid Bauer from living with or near his parents. (*Ibid.*)

In contrast, in *People v. Arevalo* (2018) 19 Cal.App.5th 652 (*Arevalo*), the appellate court upheld a residency approval condition for a defendant who was convicted of possessing methamphetamine for sale, concluding that the condition was reasonable because it would allow the probation officer to limit the defendant's exposure to sources of temptation for future criminality by declining approval of residences in close proximity to other drug dealers. (*Id.* at p. 658.)

Although Mao contends no compelling governmental purpose is served by this condition, courts have concluded that imposing limitations on a probationer's movements facilitates supervision and rehabilitation. (See *People v. Moran* (2016) 1 Cal.5th 398,

406.) We recognize the government has a legitimate interest in reformation and rehabilitation, and residency approval can play a role in effectuating that goal. Residency approval could help guide probationers away from a dangerous area where safety concerns may tempt them into purchasing weapons for protection, or it could help encourage former gang members to reside in a location less likely to tempt them into engaging in gang-related violence. It could also ensure that a probationer who is otherwise difficult to contact and supervise lives in a location known to the probation officer who has approved the location, to ensure the interests of rehabilitation and reformation are being served.

We do not view the residency approval condition assigned here as granting the probation officer unfettered power to approve Mao's residence. (*Stapleton, supra*, 9 Cal.App.5th at p. 996 [court can presume probation officer will not withhold residence approval for irrational or capricious reasons].) Moreover, if a probation officer disapproves of a particular residence for arbitrary reasons, Mao may petition for modification of the condition. (Pen. Code, §§ 1203.2, subd. (b)(1) & 1203.3, subd. (a); *Arevalo, supra*, 19 Cal.App.5th 652, 658.)

We are also mindful that "probation is a privilege and not a right, and adult probationers, in preference to incarceration, may validly consent to limitations upon their constitutional rights. [Citation.]" (*Stapleton, supra*, 9 Cal.App.5th at p. 994.) Given the legitimate state interest and the limitations on withholding approval, we conclude this condition is valid.

B.

Electronics-Search Condition Is Reasonable and Constitutional

Mao contends the probation requirement that he submit to warrantless searches of his electronic devices is both unreasonable² and unconstitutionally overbroad.³

1. *Electronics-Search Condition Is Reasonable*

A condition of probation will be invalid if it " '(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality' [Citation.]" (*Lent, supra*, 15 Cal.3d at p. 486.) "This test is conjunctive—all three prongs must be satisfied before a reviewing court will invalidate a probation term." (*Olguin, supra*, 45 Cal.4th at p. 379.)

The parties agree that the first two prongs are satisfied. Thus, the issue is whether the probation condition is "reasonably related to preventing future criminality." (*Olguin, supra*, 45 Cal.4th at p. 380.) "Because the probation officer is responsible for ensuring

² The issue of the validity of an electronic search condition under *People v. Lent* (1975) 15 Cal.3d 481 (*Lent*), is pending before our high court. (See, e.g., *People v. Trujillo* (2017) 15 Cal.App.5th 574, review granted Nov. 29, 2017, S244650 (*Trujillo*); *People v. Bryant* (2017) 10 Cal.App.5th 396, review granted June 28, 2017, S241937 (*Bryant*); *Nachbar, supra*, 3 Cal.App.5th 1122, rev.gr.; *In re J.E.* (2016) 1 Cal.App.5th 795, review granted Oct. 12, 2016, S236628 (*J.E.*); *In re A.S.* (2016) 245 Cal.App.4th 758, review granted May 25, 2016, S233932; *In re Mark C.* (2016) 244 Cal.App.4th 520, review granted Apr. 13, 2016, S232849; *In re Ricardo P.* (2015) 241 Cal.App.4th 676, review granted Feb. 17, 2016, S230923.)

³ The issue of the constitutional validity of the electronics-search condition has been deferred pending consideration and disposition of the related issues under *Lent*. (See, e.g., *People v. Valdivia* (2017) 16 Cal.App.5th 1130, review granted Feb. 14, 2018, S245893; *J.E., supra*, 1 Cal.App.5th 795.)

the probationer refrains from criminal activity and obeys all laws during the probationary period, the court may appropriately impose conditions intended to aid the probation officer in supervising the probationer and promoting his or her rehabilitation." (*Trujillo, supra*, 15 Cal.App.5th at p. 583.) "Under *Olguin*, our role in evaluating the third *Lent* factor is to determine whether there is a reasonable factual basis for the trial court to decide that the probation condition will assist the probation department to supervise the defendant." (*Trujillo*, at pp. 584-585.)

Mao contends his situation does not justify application of the electronics-search condition because it is not reasonably related to future criminal activity. He compares his situation to the defendants' situations in *In re Erica R.* (2015) 240 Cal.App.4th 907 (*Erica R.*) and *Bryant*. In *Erica R.*, the minor defendant admitted to misdemeanor possession of Ecstasy. (*Id.* at p. 909.) The appellate court concluded the probation condition was unreasonable under *Lent* because nothing in the minor's past or her current offense demonstrated a predisposition to use electronic media in connection to criminal activity. (*Id.* at p. 913.) Similarly, in *Bryant* the appellate court concluded there was no evidence Bryant would use electronic devices to engage in future criminal activity. (*Bryant, supra*, 10 Cal.App.5th at p. 404.) Bryant was convicted of carrying an unregistered, concealed firearm in a vehicle after police were called to an area outside a housing complex, where defendant was smoking marijuana in a parked car. (*Id.* at pp. 398-399.) There was no evidence of gang activity. (*Id.* at p. 406.) Ultimately, the Court of Appeal concluded that the search was invalid under *Lent*. (*Bryant*, at p. 404.)

However, these cases bear factual differences from Mao's situation. In *Erica R.*, the crime was a misdemeanor drug possession, and the defendant had no connection to gangs and no former convictions, while here, Mao pleaded guilty to a felony for carrying a concealed weapon in response to a gang threat. (*Erica R.*, *supra*, 240 Cal.App.4th at p. 909.) It is similarly distinguishable from *Bryant*, notwithstanding that both defendants were convicted of possessing an unregistered, concealed firearm in a vehicle (*Bryant*, *supra*, 10 Cal.App.5th at pp. 398-399), because there were no gang connections or former convictions in *Bryant*. (*Id.* at p. 406.) Moreover, we disagree with the reasoning of those cases because they require a showing that the defendant has or is likely to use electronic devices for criminal acts, and that requirement goes beyond the third prong of *Lent* as interpreted by *Olguin*. *Olguin* does not require a showing that the method of supervision is likely to be particularly effective for the specific defendant at issue; effectiveness generally is sufficient. (*Olguin*, *supra*, 45 Cal.4th at p. 380 ["'By allowing close supervision of probationers, probation search conditions serve to promote rehabilitation and reduce recidivism while helping to protect the community from potential harm by probationers.'" (*People v. Robles* (2000) 23 Cal.4th 789, 795.)"].)

We previously noted that a warrantless search condition, even without a relationship to the crime of which the defendant is convicted, is intended to ensure the probationer obeys all laws. (*Trujillo*, *supra*, 15 Cal.App.5th at p. 583.) We explained that we "disagree[d] with the notion that there must always be a specific factual showing of a connection between the electronics-search condition and defendant's future criminality." (*Id.* at p. 585.)

In *Trujillo* the 19-year-old defendant participated in an attempted robbery and an assault by means likely to cause great bodily injury (Pen. Code, § 211, 664, 245, subd. (a)(4)). (*Trujillo, supra*, 15 Cal.App.5th at pp. 577-578, 579.) The court assigned probation conditions that included a Fourth Amendment waiver of searches of computers and recordable media, as well as the imposition of gang conditions, although Trujillo had no gang affiliations. (*Id.* at p. 581.) The trial court considered individualized facts and found that Trujillo was at a crossroads because he had substantial risk factors related to reoffending: untreated alcohol abuse, social isolation, family history of suicide, family members who had been gang members, and economic stress. (*Id.* at p. 583.) It explained it was "sufficient if the facts show the electronics-search condition will allow the probation department to effectively supervise the defendant to further the dual goals of rehabilitating the defendant and protecting the public." (*Id.* at p. 585.)

Although there is no evidence Mao used an electronic device to commit the crime or of any connection between Mao's crime and an electronic device, "the absence of these facts does not mean the search condition was unreasonable as a matter of law. The primary focus of *Lent*'s third-prong jurisprudence has been on the particular facts and circumstances of the case before the court," (*Trujillo, supra*, 15 Cal.App.5th at p. 584.)

Like the defendant in *Trujillo*, Mao was at a crossroads of sorts. He had been making good choices since his admitted active participation in a gang, but he also lived in an area with a lot of gang activity and purchased the weapon in response to a rival gang member firing at him. He had previously been a gang member, and his fiancée's family

are gang members. The court noted that Mao had been carrying the weapon for a reason, and it commented that one reason for imposing an electronics-search waiver was because gangs communicate through social media. Mao does not object to all gang-related probation conditions, and he concedes the trial court used sound logic in imposing some of them.⁴ Even with the court's uncertainty about the strength of Mao's current connection to gangs, given his reason for unlawfully possessing a concealed weapon, his familial connections to gang members, and his history as an active gang member, it was not an abuse of discretion to impose the electronics-search condition. Moreover, the court explained the condition was necessary to adequately supervise Mao as an alternative to incarceration; otherwise, the court would not have struck Mao's prior strike in the interest of justice. Thus, the trial court did not abuse its discretion in concluding the electronics-search condition is reasonable under *Lent* because it allows the probation department to effectively supervise Mao.

2. *Electronics-Search Condition Is Constitutional*

Mao contends the electronics search condition is unconstitutionally overbroad. To support this contention, Mao cites *Appleton*. There, the defendant pleaded guilty to false imprisonment by means of deceit as part of a plea bargain after an initial charge of oral copulation with a minor, whom the defendant had met via social media using a smartphone application. (*Appleton, supra*, 245 Cal.App.4th at pp. 719-720.) The court struck the condition, opining that the electronics-search condition "would allow for

⁴ We address the gang-related probation conditions to which Mao objected *infra*.

searches of vast amounts of personal information unrelated to defendant's criminal conduct or his potential future criminality" (*id.* at p. 727), including "medical records, financial records, personal diaries, and intimate correspondence with family and friends." (*Id.* at p. 725.) The *Appleton* court based its decision to strike the condition on the United States Supreme Court's rationale in *Riley v. California* (2014) 573 U.S. 373 (*Riley*).

Riley addressed government access of a smartphone incident to an arrest. (*Riley, supra*, 573 U.S. at pp. 378, 385.) It explained that a warrantless search of an arrestee is permitted to protect officer safety and avoid destruction of evidence, and that once personal property immediately associated with the person of the arrestee is discovered during the warrantless search, the item may be inspected. (*Id.* at pp. 384, 386.) Still, officers must generally secure a warrant before conducting a search of a smartphone incident to arrest because "[t]here are no comparable risks [to officer safety or destruction of evidence] when the search is of digital data." (*Id.* at p. 386). However, as we explained in *Nachbar*, "[a]s a defendant who has pleaded guilty to a felony and accepted probation in lieu of additional punishment, defendant has a diminished expectation of privacy as compared to law-abiding citizens or those subject to searches incident to arrest. Thus, we conclude the privacy concerns voiced in *Riley* are inapposite in the context of evaluating the reasonableness of a probation condition." (*Nachbar, supra*, 3 Cal.App.5th at pp. 1122, 1129.)

As a probationer, Mao does not " ' 'enjoy 'the absolute liberty to which every citizen is entitled.' " [Citations.] Just as other punishments for criminal convictions curtail an offender's freedoms, a court granting probation may impose reasonable

conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.' " (*J.E.*, *supra*, 1 Cal.App.5th at p. 804, quoting *United States v. Knights* (2001) 534 U.S. 112, 119.) Such is the case here.

The electronics-search condition is suitably tailored in light of the substantial protective and rehabilitative concerns demonstrated by the record. There is no evidence in the record showing Mao's electronics contain the type of private information that merits heightened protection or that a search of these devices would be more intrusive than a warrantless search of his home, a condition to which he has not objected. Thus, this probation condition satisfies constitutional standards.

C.

Exclusion from Courthouses and Schools Is Unreasonable

Mao contends the probation conditions that prohibit appearance in court or at a courthouse unless he is a party or witness in the proceeding and from knowingly visiting or frequenting any school grounds where he is not a registered student are unreasonable under *Lent* and violate his constitutional rights. We conclude the bans are unreasonable.

1. Courthouse Ban Is Not Reasonable

While "[a] trial court may impose probation conditions to discourage defendants from engaging in gang-connected activities" (*People v. Perez* (2009) 176 Cal.App.4th 380, 383 (*Perez*)), including conditions to protect witnesses, parties to court proceedings, and court personnel (*id.* at p. 384, citing *Townsel v. Superior Court* (1999) 20 Cal.4th 1084, 1097), the condition imposed here is not designed to protect any particular witness, parties, or court personnel. Although the Attorney General alleges courthouses are

known gang gathering areas, which provides a reason to restrict access to those with gang affiliations from congregating there, the prosecution did not claim that Mao loitered at or near courthouses. There is no indication that Mao had or would threaten witnesses or incite violence, and the court did not offer a rationale for banning Mao from accessing court buildings.

Moreover, "[a] narrow condition that achieves rehabilitation should be used in place of broad conditions that prevent otherwise lawful conduct and necessary activities. [Citation.]" (*Perez, supra*, 176 Cal.App.4th at p. 384.) The Attorney General has not explained why a narrower restriction would be an insufficient method of achieving rehabilitation. Because there does not appear to be a reasonable factual basis for the probation condition or an explanation of how the condition will assist the probation department in supervising the defendant, we remand the matter to the trial court with instructions to strike the condition or impose a narrower condition based on rational concerns if it deems the term necessary.

2. Exclusion from Schools Is Not Reasonable

The Attorney General contends Mao's past participation in a gang activity justifies prohibiting his presence at schools and argues the current offense "involve[s] a high risk of violent confrontation with rival gang members," suggesting that restrictions on Mao's ability to be present at schools is properly tailored to protect the public and prevent future criminality. The Attorney General argues that because schools are "known gathering areas," a court may reasonably restrict access of those with known gang affiliations from congregating in such areas.

Applying the standards of *Lent*, we find no reasonable basis for the condition prohibiting Mao from being present on school grounds unless he is a registered student. There is no relationship between a school or students and Mao's past or present crimes. The record does not indicate that his possession of the concealed, unregistered firearm occurred on or near school grounds, or that its acquisition involved school-age children. Moreover, the record is murky regarding Mao's connection with gangs; the court commented that it did not think Mao was necessarily active in a gang now, and if Mao were not in a gang, he had nothing to worry about. While that reasoning aligns with some of the gang-related restrictions, like not knowingly displaying insignias or clothing evidencing an affiliation with membership in a gang, the ban from school grounds is unreasonable here because it lacks any exceptions for legitimate activities. This restriction goes beyond congregating with known gang members on school grounds; it prohibits accessing school grounds, even for reasonable purposes, like dropping off a child at school, attending parent-teacher meetings, or supporting children at school activities.

The school ban also strikes us as inconsistent with the court's statements about the important role Mao plays as a father to his children, two of whom are school-aged. The court told Mao, "Start being a father. Start setting the example. The fact that you work at this tile place is awesome. The fact that you probably get up early and work late and work hard is awesome. That's what you need to talk to your kids about. . . . they want to be like you. They admire you." "You can't use your background as a guide for him." A

condition that bans Mao's physical presence at his 13- and 11-year-olds' school(s) could impede his ability to parent.

The absence of any justification for prohibiting Mao's presence at any school, including his children's school(s), suggests it is not designed to facilitate effective supervision; thus, it is not reasonably related to deterring future criminality. (See *Olguin*, *supra*, 45 Cal.4th at pp. 378-379.) Accordingly, we remand the matter to the trial court with instructions to strike the condition or impose a narrower condition based on rational concerns if it deems the term necessary.

DISPOSITION

We remand the matter to the trial court with instructions to strike the conditions prohibiting Mao from appearing in court or at the courthouse unless he is a party or witness in a proceeding and prohibiting Mao from knowingly visiting or frequenting any school where he is not a registered student, or, in the alternative, to identify the basis for these restrictions and modify them, if necessary, based on those rational concerns. The trial court shall prepare an amended abstract of judgment reflecting the sentencing decision. In all other respects, the judgment is affirmed.

HUFFMAN, Acting P. J.

WE CONCUR:

O'ROURKE, J.

DATO, J.